

### REMARKS

Claims 1-13 are presently pending in the application.

Claim 1 has been amended to specify a gap 18 defined between the pump housing and the protective ring for receiving the pump tubing from outside, wherein the gap is open at an outer periphery of the gap during operation of the pump. This amendment is supported, for example, in paragraphs [0009], [0017], [0032] and [0033] of the specification and in Figs. 1-3 of the drawings. In addition, claim 1 has been amended to provide antecedent basis for the pump housing and the wheel axis, and claims 9, 10, 12 and 13 have been amended to conform to the amendments to claim 1 and to insert reference numbers and dimensions letters, referring to the amendments to the drawings and specification, as discussed below.

The Examiner has objected to the drawings under 37 CFR § 1.83(a) as not showing every feature of the invention specified in the claims. In particular, the Examiner objects that the receptacle for a sensor system, the radial extension of the protective ring, and the diameter of the pump tubing, as specified in claims 9, 12 and 13, have not been shown in the drawings. Accordingly, Fig. 2 of the drawings has been amended as shown in the attached Replacement Sheet to illustrate the receptacle 26 for a sensor system in the tubing insertion location 20, the diameter D of the pump tubing, the spacing  $d_2$  of the rear ring 16 from the protective ring 12, and the radial extension of  $d_1$  of the protective ring 12. Similarly, paragraphs [0030], [0031] and [0033], have been amended to refer to these features shown in Fig. 2, and the corresponding language from claims 9, 12 and 13 has been inserted in paragraphs [0030] and [0033]. These amendments are supported at least by original claims 9, 12 and 13. In addition, paragraphs [0030] and [0032] have been amended to correct typographical errors, which were noted during review of the application.

Accordingly, no new matter has been added by any of the amendments to the specification, drawing or claims. Entry of the amendments is therefore respectfully requested.

The Examiner has rejected claims 1-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,356,267 of Fulmer. Referring particularly to Figs. 2 and 3 of Fulmer, the Examiner

contends that the housing 34 of Fulmer corresponds to the protective ring 12 of the presently claimed invention, and this housing 34 forms a gap 38 for accommodating the pump tubing 32. The Examiner also contends that all of the other features of the claims are shown by Fulmer. This rejection is respectfully but strenuously traversed for the reasons set forth in detail below.

Fulmer shows a closed construction tubing pump. Such closed constructions are basically discussed in paragraph [0004] of the specification of the present application. With such closed constructions a housing is provided which completely surrounds the tubing toward the outside. This means, however, that the housing must be opened in order to insert the tubing, and this opening complicates the handling and operation of the pump.

In contrast thereto, open construction tubing pumps are known, as basically discussed in paragraph [0005] of the present application. The presently claimed invention relates to these open-type tubing pumps.


A purpose of the presently claimed invention is to improve such open construction tubing pumps, that is tubing pumps in which the tubing can be laid around the wheel without having to open a housing. Problems with the prior art open construction tubing pumps included service failures and the danger of injury to the operator, due to the exposure of the interface between the tubing and the pump wheel. According to the presently claimed invention, these problems are avoided or reduced by the provision of a protective ring in the manner as presently claimed.

Since Fulmer does not disclose an open construction tubing pump, the disclosure of Fulmer is totally irrelevant to the presently claimed invention. Thus, Fulmer does not provide a gap defined between a pump housing and a protective ring, wherein the gap receives the pump tubing from the outside and is open at an outer periphery of the gap during operation of the pump. Instead, the housing 34 of Fulmer must be opened for insertion of the tubing and is not open at an outer periphery during operation of the pump. Accordingly, Fulmer totally fails to teach or suggest the presently claimed invention. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Accordingly, reconsideration of the objection and rejection and an early notice of allowance are respectfully solicited.

Respectfully submitted,

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Enclosures: Replacement Sheet of Drawings (Fig. 2)  
Petition for Extension of Time (one-month)